

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RODRIC P. STANLEY,  
Plaintiff,  
v.  
CHRISTOPHER KIDD,  
Defendant.

Case No. [23-cv-00798-JD](#)

**ORDER REOPENING CASE; STAYING  
PROCEEDINGS AND  
ADMINISTRATIVELY CLOSING THE  
CASE**

Plaintiff, a detainee, filed a pro se civil rights complaint under 42 U.S.C. § 1983. The original complaint was dismissed with leave to amend, and the case was dismissed without prejudice when plaintiff failed to file an amended complaint. Plaintiff has filed an amended complaint and seeks to reopen the case.

**DISCUSSION**

**STANDARD OF REVIEW**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review, the Court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the claim showing that the pleader is entitled to relief.” Although a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a

1 cause of action will not do. . . . Factual allegations must be enough to raise a right to relief above  
 2 the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations  
 3 omitted). A complaint must proffer “enough facts to state a claim to relief that is plausible on its  
 4 face.” *Id.* at 570. The United States Supreme Court has explained the “plausible on its face”  
 5 standard of *Twombly*: “While legal conclusions can provide the framework of a complaint, they  
 6 must be supported by factual allegations. When there are well-pleaded factual allegations, a court  
 7 should assume their veracity and then determine whether they plausibly give rise to an entitlement  
 8 to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

9 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege that: (1) a right secured by  
 10 the Constitution or laws of the United States was violated, and (2) the alleged deprivation was  
 11 committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

### 12 **LEGAL CLAIMS**

13 Plaintiff alleges that his phone was illegally searched during his arrest. He seeks money  
 14 damages from the detective who was involved. To recover damages for an allegedly  
 15 unconstitutional conviction or imprisonment, or for other harm caused by actions whose  
 16 unlawfulness would render a conviction or sentence invalid under § 1983, a plaintiff must prove  
 17 that the conviction or sentence has been reversed on direct appeal, expunged by executive order,  
 18 declared invalid by a state tribunal authorized to make such determination, or called into question  
 19 by a federal court’s issuance of a writ of habeas corpus. *Heck v. Humphrey*, 512 U.S. 477, 486-  
 20 487 (1994). Consequently, such a claim for damages, that is, one bearing such a relationship to a  
 21 conviction or sentence that has not been so invalidated, is not cognizable under § 1983. *Id.* at 487.

22 In a different context, in *Wallace v. Kato*, 549 U.S. 384, 393 (2007), the Court held that the  
 23 “*Heck* rule for deferred accrual [of the statute of limitations] is called into play only when there  
 24 exists ‘a conviction or sentence that has not been . . . invalidated,’ that is to say, an ‘outstanding  
 25 criminal judgment.’” *Id.* at 391-93 (quoting *Heck*, 512 U.S. at 486-87). The *Heck* rule delays  
 26 accrual of the limitations period only if there is an existing conviction on the date the statute of  
 27 limitations begins to run, which in the case of wrongful arrest or wrongful imprisonment claims is  
 28 when the plaintiff’s confinement is no longer without legal process, but rather becomes a

1 confinement pursuant to legal process, for example, when he or she is bound over by a judge or  
2 arraigned on charges. *Id.* at 389-90. Although the court was considering only when the statute of  
3 limitations began running on a false arrest or false imprisonment claim, the discussion quoted  
4 suggests that *Heck* does not apply if there is no extant conviction – for instance, if a plaintiff has  
5 only been arrested or charged.

6 If a plaintiff files a § 1983 false arrest claim before he or she is convicted, or files any other  
7 claim related to rulings that likely will be made in a pending or anticipated criminal trial, it is  
8 within the power of the district court, and accords with common practice, to stay the civil action  
9 until the criminal case or the likelihood of a criminal case is ended. *Id.* at 393-94. If the plaintiff  
10 is thereafter convicted, and if the stayed civil suit would impugn that conviction, *Heck* requires  
11 dismissal; otherwise, the case may proceed. *Id.* at 394.

12 Section 1983 does not contain its own limitations period. The appropriate period is that of  
13 the forum state’s statute of limitations for personal injury torts. *See Wilson v. Garcia*, 471 U.S.  
14 261, 276 (1985), *superseded by statute on other grounds as stated in Jones v. R.R. Donnelley &*  
15 *Sons Co.*, 541 U.S. 369 377-78 (2004); *TwoRivers v. Lewis*, 174 F.3d 987, 991 (9th Cir. 1999). In  
16 California, the general residual statute of limitations for personal injury actions is the two-year  
17 period set forth at California Civil Procedure Code § 335.1 and is the applicable statute in § 1983  
18 actions.<sup>1</sup> *See Maldonado v. Harris*, 370 F.3d 945, 954 (9th Cir. 2004).

19 Plaintiff states that he was arrested, and his phone was illegally searched on September 25,  
20 2018, by the defendant detective. Plaintiff is in custody awaiting trial for this this search and  
21 arrest. Plaintiff cannot obtain money damages unless the charges are dismissed, or the criminal  
22 case concludes with a finding of not guilty. The case is stayed pending the outcome of the  
23 criminal proceeding. If plaintiff is found not guilty or the charges are dismissed, he still must  
24 address the statute of limitations issue because this case was filed more than four years after the  
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26 <sup>1</sup> California Civil Procedure Code section 352.1 recognizes imprisonment as a disability that tolls  
27 the statute of limitations when a person is “imprisoned on a criminal charge, or in execution under  
28 the sentence of a criminal court for a term of less than for life.” Cal. Civ. Proc. Code § 352.1(a).  
The tolling is not indefinite, however; the disability of imprisonment delays the accrual of the  
cause of action for a maximum of two years. *See id.*

1 search.

2 **CONCLUSION**

3 The request to reopen and amend is granted and the case is reopened. For the foregoing  
4 reasons, this action is stayed and administratively closed. Within twenty-eight (28) days of the  
5 date on which he is acquitted, convicted, or charges are dismissed, plaintiff must file a motion to  
6 lift the stay. If plaintiff is convicted and if the claim would impugn that conviction, the action will  
7 be dismissed; otherwise, his claim may then proceed. In light of the stay, plaintiff should not file  
8 any more documents in this action until the criminal proceedings have concluded. The Clerk is  
9 requested to administratively close the case.

10 **IT IS SO ORDERED.**

11 Dated: August 14, 2023

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16 JAMES DONATO  
17 United States District Judge  
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